

**ENTERED**

April 28, 2023

Nathan Ochsner, Clerk

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

FCSTONE MERCHANT SERVICES, LLC,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. 4:20-CV-3693
	§	
SGR ENERGY, INC., ST SHIPPING &	§	
TRANSPORT PTE LTD, and THOMAS SAN	§	
MIGUEL, individual,	§	
	§	
Defendants.	§	
	<b><u>ORDER</u></b>	

Pending before the Court is Plaintiff FCStone Merchant Services, LLC's ("Plaintiff" or "FMS") Motion for Reconsideration of Automatic Stay as to ST Shipping & Transport PTE LTD ("STS"). (Doc. No. 78). STS filed a Response in Opposition (Doc. No. 79), and Plaintiff filed a Reply. (Doc. No. 80). After considering the motions and the law, the Court grants Plaintiff FCStone Merchant Services, LLC's ("Plaintiff") Motion for Reconsideration of Automatic Stay as to ST Shipping & Transport PTE LTD ("STS"). (Doc. No. 78).

This lawsuit involves two voyages arranged and facilitated by Defendants, transporting crude oil from Texas to Colombia. Plaintiff pleaded claims of breach of contract against SGR; negligent misrepresentation against SGR, Thomas San Miguel ("TSM"), and STS; tortious interference against TSM; conversion, money had and received, and unjust enrichment against STS; and declaratory judgment against SGR and STS.

Several months into the litigation, SGR filed a Notice of Bankruptcy (Doc. No. 60), informing the Court that it had commenced a voluntary bankruptcy case under Chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* in the United States Bankruptcy Court for the Southern District of Texas, Victoria Division. *See In re SGR Energy, Inc.*, Case No. 21-60090

(CML). Subsequently, SGR's bankruptcy case was dismissed, and Plaintiff filed an Unopposed Motion to Lift the Automatic Stay (Doc. No. 65), that the Court granted. (Doc. No. 66).


Since then, however, SGR's creditors filed an involuntary bankruptcy petition under the United States Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas, Houston Division. Additionally, Defendant TSM, and his wife, Tiffany Dawn San Miguel, have since filed for Chapter 7 Bankruptcy. *See in re: Thomas and Tiffany San Miguel*, No. 4:22-032820 (Bankr. S.D. Tex. Sep. 27, 2022). Accordingly, the Court again entered an order staying the case. (Doc. No. 77). In response to the Court's order, FMS filed its Motion to Lift Stay. (Doc. No. 78). FMS argues the Court should lift the stay as to the non-bankrupt defendant—STS. (Doc. No. 78). STS opposes FMS's motion.

In its Response, STS "concur[s]" that the bankruptcy court's automatic stay does not extend to STS. (Doc. No. 79 at 1) ("The motion contends that no automatic stay applies to ST Shipping ... ST Shipping concurs,"). Case law from the Fifth Circuit supports this conclusion. *See In re TXNB Internal Case*, 483 F.3d 292, 302 (5th Cir. 2007) (automatic stay imposed by 11 U.S.C. § 362(a) does not apply to claims directed against the non-debtor). As such, the Motion to Lift Stay as to STS is granted.

### **Conclusion**

For the foregoing reasons, the Court grants Plaintiff FCStone Merchant Services, LLC's ("Plaintiff") Motion for Reconsideration of Automatic Stay as to STS. (Doc. No. 78).

Signed at Houston, Texas, this 27<sup>th</sup> day of April, 2023.

  
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Andrew S. Hanen  
United States District Judge